

AN ACT concerning human rights.

**Be it enacted by the People of the State of Illinois,  
represented in the General Assembly:**

Section 5. The Freedom of Information Act is amended by changing Section 7.5, as amended by Public Act 101-656, as follows:

(5 ILCS 140/7.5)

Sec. 7.5. Statutory exemptions. To the extent provided for by the statutes referenced below, the following shall be exempt from inspection and copying:

(a) All information determined to be confidential under Section 4002 of the Technology Advancement and Development Act.

(b) Library circulation and order records identifying library users with specific materials under the Library Records Confidentiality Act.

(c) Applications, related documents, and medical records received by the Experimental Organ Transplantation Procedures Board and any and all documents or other records prepared by the Experimental Organ Transplantation Procedures Board or its staff relating to applications it has received.

(d) Information and records held by the Department of

Public Health and its authorized representatives relating to known or suspected cases of sexually transmissible disease or any information the disclosure of which is restricted under the Illinois Sexually Transmissible Disease Control Act.

(e) Information the disclosure of which is exempted under Section 30 of the Radon Industry Licensing Act.

(f) Firm performance evaluations under Section 55 of the Architectural, Engineering, and Land Surveying Qualifications Based Selection Act.

(g) Information the disclosure of which is restricted and exempted under Section 50 of the Illinois Prepaid Tuition Act.

(h) Information the disclosure of which is exempted under the State Officials and Employees Ethics Act, and records of any lawfully created State or local inspector general's office that would be exempt if created or obtained by an Executive Inspector General's office under that Act.

(i) Information contained in a local emergency energy plan submitted to a municipality in accordance with a local emergency energy plan ordinance that is adopted under Section 11-21.5-5 of the Illinois Municipal Code.

(j) Information and data concerning the distribution of surcharge moneys collected and remitted by carriers under the Emergency Telephone System Act.

(k) Law enforcement officer identification information or driver identification information compiled by a law enforcement agency or the Department of Transportation under Section 11-212 of the Illinois Vehicle Code.

(l) Records and information provided to a residential health care facility resident sexual assault and death review team or the Executive Council under the Abuse Prevention Review Team Act.

(m) Information provided to the predatory lending database created pursuant to Article 3 of the Residential Real Property Disclosure Act, except to the extent authorized under that Article.

(n) Defense budgets and petitions for certification of compensation and expenses for court appointed trial counsel as provided under Sections 10 and 15 of the Capital Crimes Litigation Act. This subsection (n) shall apply until the conclusion of the trial of the case, even if the prosecution chooses not to pursue the death penalty prior to trial or sentencing.

(o) Information that is prohibited from being disclosed under Section 4 of the Illinois Health and Hazardous Substances Registry Act.

(p) Security portions of system safety program plans, investigation reports, surveys, schedules, lists, data, or information compiled, collected, or prepared by or for the Regional Transportation Authority under Section 2.11 of

the Regional Transportation Authority Act or the St. Clair County Transit District under the Bi-State Transit Safety Act.

(q) Information prohibited from being disclosed by the Personnel Record Review Act.

(r) Information prohibited from being disclosed by the Illinois School Student Records Act.

(s) Information the disclosure of which is restricted under Section 5-108 of the Public Utilities Act.

(t) All identified or deidentified health information in the form of health data or medical records contained in, stored in, submitted to, transferred by, or released from the Illinois Health Information Exchange, and identified or deidentified health information in the form of health data and medical records of the Illinois Health Information Exchange in the possession of the Illinois Health Information Exchange Office due to its administration of the Illinois Health Information Exchange. The terms "identified" and "deidentified" shall be given the same meaning as in the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191, or any subsequent amendments thereto, and any regulations promulgated thereunder.

(u) Records and information provided to an independent team of experts under the Developmental Disability and Mental Health Safety Act (also known as Brian's Law).

(v) Names and information of people who have applied for or received Firearm Owner's Identification Cards under the Firearm Owners Identification Card Act or applied for or received a concealed carry license under the Firearm Concealed Carry Act, unless otherwise authorized by the Firearm Concealed Carry Act; and databases under the Firearm Concealed Carry Act, records of the Concealed Carry Licensing Review Board under the Firearm Concealed Carry Act, and law enforcement agency objections under the Firearm Concealed Carry Act.

(w) Personally identifiable information which is exempted from disclosure under subsection (g) of Section 19.1 of the Toll Highway Act.

(x) Information which is exempted from disclosure under Section 5-1014.3 of the Counties Code or Section 8-11-21 of the Illinois Municipal Code.

(y) Confidential information under the Adult Protective Services Act and its predecessor enabling statute, the Elder Abuse and Neglect Act, including information about the identity and administrative finding against any caregiver of a verified and substantiated decision of abuse, neglect, or financial exploitation of an eligible adult maintained in the Registry established under Section 7.5 of the Adult Protective Services Act.

(z) Records and information provided to a fatality review team or the Illinois Fatality Review Team Advisory

Council under Section 15 of the Adult Protective Services Act.

(aa) Information which is exempted from disclosure under Section 2.37 of the Wildlife Code.

(bb) Information which is or was prohibited from disclosure by the Juvenile Court Act of 1987.

(cc) Recordings made under the Law Enforcement Officer-Worn Body Camera Act, except to the extent authorized under that Act.

(dd) Information that is prohibited from being disclosed under Section 45 of the Condominium and Common Interest Community Ombudsperson Act.

(ee) Information that is exempted from disclosure under Section 30.1 of the Pharmacy Practice Act.

(ff) Information that is exempted from disclosure under the Revised Uniform Unclaimed Property Act.

(gg) Information that is prohibited from being disclosed under Section 7-603.5 of the Illinois Vehicle Code.

(hh) Records that are exempt from disclosure under Section 1A-16.7 of the Election Code.

(ii) Information which is exempted from disclosure under Section 2505-800 of the Department of Revenue Law of the Civil Administrative Code of Illinois.

(jj) Information and reports that are required to be submitted to the Department of Labor by registering day

and temporary labor service agencies but are exempt from disclosure under subsection (a-1) of Section 45 of the Day and Temporary Labor Services Act.

(kk) Information prohibited from disclosure under the Seizure and Forfeiture Reporting Act.

(ll) Information the disclosure of which is restricted and exempted under Section 5-30.8 of the Illinois Public Aid Code.

(mm) Records that are exempt from disclosure under Section 4.2 of the Crime Victims Compensation Act.

(nn) Information that is exempt from disclosure under Section 70 of the Higher Education Student Assistance Act.

(oo) Communications, notes, records, and reports arising out of a peer support counseling session prohibited from disclosure under the First Responders Suicide Prevention Act.

(pp) Names and all identifying information relating to an employee of an emergency services provider or law enforcement agency under the First Responders Suicide Prevention Act.

(qq) Information and records held by the Department of Public Health and its authorized representatives collected under the Reproductive Health Act.

(rr) Information that is exempt from disclosure under the Cannabis Regulation and Tax Act.

(ss) Data reported by an employer to the Department of

Human Rights pursuant to Section 2-108 of the Illinois Human Rights Act.

(tt) Recordings made under the Children's Advocacy Center Act, except to the extent authorized under that Act.

(uu) Information that is exempt from disclosure under Section 50 of the Sexual Assault Evidence Submission Act.

(vv) Information that is exempt from disclosure under subsections (f) and (j) of Section 5-36 of the Illinois Public Aid Code.

(ww) Information that is exempt from disclosure under Section 16.8 of the State Treasurer Act.

(xx) Information that is exempt from disclosure or information that shall not be made public under the Illinois Insurance Code.

(yy) Information prohibited from being disclosed under the Illinois Educational Labor Relations Act.

(zz) Information prohibited from being disclosed under the Illinois Public Labor Relations Act.

(aaa) Information prohibited from being disclosed under Section 1-167 of the Illinois Pension Code.

~~(bbb) Information that is exempt from disclosure under subsection (k) of Section 11 of the Equal Pay Act of 2003.~~

(Source: P.A. 100-20, eff. 7-1-17; 100-22, eff. 1-1-18; 100-201, eff. 8-18-17; 100-373, eff. 1-1-18; 100-464, eff. 8-28-17; 100-465, eff. 8-31-17; 100-512, eff. 7-1-18; 100-517,

eff. 6-1-18; 100-646, eff. 7-27-18; 100-690, eff. 1-1-19; 100-863, eff. 8-14-18; 100-887, eff. 8-14-18; 101-13, eff. 6-12-19; 101-27, eff. 6-25-19; 101-81, eff. 7-12-19; 101-221, eff. 1-1-20; 101-236, eff. 1-1-20; 101-375, eff. 8-16-19; 101-377, eff. 8-16-19; 101-452, eff. 1-1-20; 101-466, eff. 1-1-20; 101-600, eff. 12-6-19; 101-620, eff. 12-20-19; 101-649, eff. 7-7-20; 101-656, eff. 3-23-21.)

Section 10. The Equal Pay Act of 2003 is amended by changing Sections 11 and 30 as follows:

(820 ILCS 112/11)

Sec. 11. Equal pay registration certificate requirements; application. For the purposes of this Section 11 only, "business" means any private employer who has more than 100 employees in the State of Illinois and is required to file an Annual Employer Information Report EEO-1 with the Equal Employment Opportunity Commission, but ~~and~~ does not include the State of Illinois or any political subdivision, municipal corporation, or other governmental unit or agency.

(a) A business must obtain an equal pay registration certificate from the Department ~~or certify in writing that it is exempt.~~

(b) Any business subject to the requirements of this Section that is authorized to transact business in this State on March 23, 2021 shall submit an application to obtain an

equal pay registration certificate, between March 24, 2022 and March 23, 2024, and must recertify every 2 years thereafter. Any business subject to the requirements of this Section that is authorized to transact business in this State after March 23, 2021 must submit an application to obtain an equal pay registration certificate within 3 years of commencing business operations, but not before January 1, 2024, and must recertify every 2 years thereafter. The Department shall collect contact information from each business subject to this Section. The Department shall assign each business a date by which it must submit an application to obtain an equal pay registration certificate. The business shall recertify every 2 years at a date to be determined by the Department. When a business receives a notice from the Department to recertify for its equal pay registration certificate, if the business has fewer than 100 employees, the business must certify in writing to the Department that it is exempt from this Section. Any new business that is subject to this Section and authorized to conduct business in this State, after the effective date of this amendatory Act of the 102nd General Assembly, shall submit its contact information to the Department by January 1 of the following year and shall be assigned a date by which it must submit an application to obtain an equal pay registration certificate. The Department's failure to assign a business a registration date does not exempt the business from compliance with this Section. The failure of the Department to notify a

business of its recertification deadline may be a mitigating factor when making a determination of a violation of this Section ~~the effective date of this amendatory Act of the 101st General Assembly must obtain an equal pay registration certificate within 3 years after the effective date of this amendatory Act of the 101st General Assembly and must recertify every 2 years thereafter. Any business subject to the requirements of this Section that is authorized to transact business in this State after the effective date of this amendatory Act of the 101st General Assembly must obtain an equal pay registration certificate within 3 years of commencing business operations and must recertify every 2 years thereafter.~~

(c) Application.

(1) A business shall apply for an equal pay registration certificate by paying a \$150 filing fee and submitting wage records and an equal pay compliance statement to the Director as follows:

(A) Wage Records. Any business that is required to file an annual Employer Information Report EEO-1 with the Equal Employment Opportunity Commission must also submit to the Director a copy of the business's most recently filed Employer Information Report EEO-1. The business shall also compile a list of all employees during the past calendar year, separated by gender and the race and ethnicity categories as reported in the

business's most recently filed Employer Information Report EEO-1, and the county in which the employee works, the date the employee started working for the business, any other information the Department deems necessary to determine if pay equity exists among employees, and report the total wages as defined by Section 2 of the Illinois Wage Payment and Collection Act paid to each employee during the past calendar year, rounded to the nearest \$100, to the Director.

(B) Equal Pay Compliance Statement. The business must submit a statement signed by a corporate officer, legal counsel, or authorized agent of the business certifying:

(i) that the business is in compliance with this Act and other relevant laws, including but not limited to: Title VII of the Civil Rights Act of 1964, the Equal Pay Act of 1963, the Illinois Human Rights Act, and the Equal Wage Act;

(ii) that the average compensation for its female and minority employees is not consistently below the average compensation, as determined by rule by the United States Department of Labor, for its male and non-minority employees within each of the major job categories in the Employer Information Report EEO-1 for which an employee is expected to perform work, taking into account

factors such as length of service, requirements of specific jobs, experience, skill, effort, responsibility, working conditions of the job, education or training, job location, use of a collective bargaining agreement, or other mitigating factors; as used in this subparagraph, "minority" has the meaning ascribed to that term in paragraph (1) of subsection (A) of Section 2 of the Business Enterprise for Minorities, Women, and Persons with Disabilities Act;

(iii) that the business does not restrict employees of one sex to certain job classifications, and makes retention and promotion decisions without regard to sex;

(iv) that wage and benefit disparities are corrected when identified to ensure compliance with the Acts cited in item (i);

(v) how often wages and benefits are evaluated; and

(vi) the approach the business takes in determining what level of wages and benefits to pay its employees; acceptable approaches include, but are not limited to, a wage and salary survey.

(C) Filing fee. The business shall pay to the Department a filing fee of \$150. Proceeds ~~an equal pay compliance statement to the Director. Any business~~

~~that is required to file an annual Employer Information Report EEO-1 with the Equal Employment Opportunity Commission must also submit to the Director a copy of the business's most recently filed Employer Information Report EEO-1 for each county in which the business has a facility or employees. The business shall also compile, from records maintained and available, a list of all employees during the past calendar year, separated by gender and the race and ethnicity categories as reported in the business's most recently filed Employer Information Report EEO-1, and report the total wages as defined by Section 2 of the Illinois Wage Payment and Collection Act paid to each employee during the past calendar year, rounded to the nearest hundred dollar, to the Director. The proceeds from the fees collected under this Section shall be deposited into the Equal Pay Registration Fund, a special fund created in the State treasury. Moneys in the Fund shall be appropriated to the Department for the purposes of this Section. The Director shall issue an equal pay registration certificate to a business that submits to the Director a statement signed by a corporate officer, legal counsel, or authorized agent of the business:~~

(2) Receipt of the equal pay compliance application and statement by the Director does not establish

compliance with the Acts set forth in item (i) of subparagraph (B) of paragraph (1) of this subsection (c).

~~(A) that the business is in compliance with Title VII of the Civil Rights Act of 1964, the Equal Pay Act of 1963, the Illinois Human Rights Act, the Equal Wage Act, and the Equal Pay Act of 2003;~~

~~(B) that the average compensation for its female and minority employees is not consistently below the average compensation, as determined by rule by the United States Department of Labor, for its male and non-minority employees within each of the major job categories in the Employer Information Report EEO-1 for which an employee is expected to perform work under the contract, taking into account factors such as length of service, requirements of specific jobs, experience, skill, effort, responsibility, working conditions of the job, or other mitigating factors; as used in this subparagraph, "minority" has the meaning ascribed to that term in paragraph (1) of subsection (A) of Section 2 of the Business Enterprise for Minorities, Women, and Persons with Disabilities Act;~~

~~(C) that the business does not restrict employees of one sex to certain job classifications and makes retention and promotion decisions without regard to sex;~~

~~(D) that wage and benefit disparities are~~

~~corrected when identified to ensure compliance with the Acts cited in subparagraph (A) and with subparagraph (B); and~~

~~(E) how often wages and benefits are evaluated to ensure compliance with the Acts cited in subparagraph (A) and with subparagraph (B).~~

~~(2) The equal pay compliance statement shall also indicate whether the business, in setting compensation and benefits, utilizes:~~

~~(A) a market pricing approach;~~

~~(B) State prevailing wage or union contract requirements;~~

~~(C) a performance pay system;~~

~~(D) an internal analysis; or~~

~~(E) an alternative approach to determine what level of wages and benefits to pay its employees. If the business uses an alternative approach, the business must provide a description of its approach.~~

~~(3) Receipt of the equal pay compliance statement by the Director does not establish compliance with the Acts set forth in subparagraph (A).~~

(3) A business that has employees in multiple locations or facilities in Illinois shall submit a single application to the Department regarding all of its operations in Illinois.

(d) Issuance or rejection of registration certificate.

After January 1, 2022, the Director must issue an equal pay registration certificate, or a statement of why the application was rejected, within 45 calendar days of receipt of the application. Applicants shall have the opportunity to cure any deficiencies in its application that led to the rejection, and re-submit the revised application to the Department within 30 calendar days of receiving a rejection. Applicants shall have the ability to appeal rejected applications. An application may be rejected only if it does not comply with the requirements of subsection (c), or the business is otherwise found to be in violation of this Act. The receipt of an application by the Department, or the issuance of a registration certificate by the Department, shall not establish compliance with the Equal Pay Act of 2003 as to all Sections except Section 11. The issuance of a registration certificate shall not be a defense against any Equal Pay Act violation found by the Department, nor a basis for mitigation of damages. ~~The Director must issue an equal pay registration certificate, or a statement of why the application was rejected, within 45 calendar days of receipt of the application. An application may be rejected only if it does not comply with the requirements of subsection (c). The receipt of an application by the Department, or the issuance of a registration certificate by the Department, shall not establish compliance of the Equal Pay Act of 2003 as to all Sections except Section 11. The issuance of a registration~~

~~certificate shall not be a defense against any Equal Pay Act violation found by the Department, nor a basis for mitigation of damages.~~

(e) Revocation of registration certificate. An equal pay registration certificate for a business may be suspended or revoked by the Director when the business fails to make a good faith effort to comply with the Acts identified in item (i) of subparagraph (B) of paragraph (1) of subsection (c), fails to make a good faith effort to comply with this Section, or has multiple violations of this Section or the Acts identified in item (i) of subparagraph (B) of paragraph (1) of subsection (c). Prior to suspending or revoking a registration certificate, the Director must first have sought to conciliate with the business regarding wages and benefits due to employees.

Consistent with Section 25, prior to or in connection with the suspension or revocation of an equal pay registration certificate, the Director, or his or her authorized representative, may interview workers, administer oaths, take or cause to be taken the depositions of witnesses, and require by subpoena the attendance and testimony of witnesses, and the production of personnel and compensation information relative to the matter under investigation, hearing or a department-initiated audit. ~~subparagraph (A) of paragraph (1) of subsection (c), fails to make a good faith effort to comply with this Section, or has multiple violations of this Section~~

~~er the Acts identified in subparagraph (A) of paragraph (1) of subsection (c). Prior to suspending or revoking a registration certificate, the Director must first have sought to conciliate with the business regarding wages and benefits due to employees.~~

~~The Director, or his or her authorized representative, may interview workers, administer oaths, take or cause to be taken the depositions of witnesses, and require by subpoena the attendance and testimony of witnesses, and the production of all books, records, and other evidence relative to the matter under investigation or hearing. Such subpoena shall be signed and issued by the Director or his or her authorized representative.~~

~~Upon request by the Director or his or her deputies or agents, records shall be copied and submitted for evidence at no cost to the Department. Every employer upon request shall furnish to the Director or his or her authorized representative, on demand, a sworn statement of the accuracy of the records. Any employer who refuses to furnish a sworn statement of the records is in violation of this Act.~~

~~In case of failure of any person to comply with any subpoena lawfully issued under this Section or on the refusal of any witness to produce evidence or to testify to any matter regarding which he or she may be lawfully interrogated, it is the duty of any circuit court, upon application of the Director or his or her authorized representative, to compel~~

~~obedience by proceedings for contempt, as in the case of disobedience of the requirements of a subpoena issued by such court or a refusal to testify therein. The Director may certify to official acts.~~

Neither the Department nor the Director shall be held liable for good faith errors in issuing, denying, suspending or revoking certificates.

(f) Administrative review. A business may obtain an administrative hearing in accordance with the Illinois Administrative Procedure Act before the suspension or revocation of its certificate or imposition of civil penalties as provided by subsection (i) is effective by filing a written request for hearing within 20 calendar days after service of notice by the Director.

~~(1) A business may obtain an administrative hearing in accordance with the Illinois Administrative Procedure Act before the suspension or revocation of its certificate is effective by filing a written request for hearing within 20 calendar days after service of notice by the Director.~~

~~(2) A business may obtain an administrative hearing in accordance with the Illinois Administrative Procedure Act before the contract award entity's abridgement or termination of a contract is effective by filing a written request for a hearing 20 calendar days after service of notice by the contract award entity.~~

(g) Technical assistance. The Director must provide

technical assistance to any business that requests assistance regarding this Section.

~~(h) Audit. The Director may audit the business's compliance with this Section. As part of an audit, upon request, a business must provide the Director the following information with respect to employees expected to perform work under the contract in each of the major job categories in the Employer Information Report EEO-1:~~

~~(1) number of male employees;~~

~~(2) number of female employees;~~

~~(3) average annualized salaries paid to male employees and to female employees, in the manner most consistent with the employer's compensation system, within each major job category;~~

~~(4) information on performance payments, benefits, or other elements of compensation, in the manner most consistent with the employer's compensation system, if requested by the Director as part of a determination as to whether these elements of compensation are different for male and female employees;~~

~~(5) average length of service for male and female employees in each major job category; and~~

~~(6) other information identified by the business or by the Director, as needed, to determine compliance with items specified in paragraph (1) of subsection (c).~~

(h) ~~(i)~~ Access to data.

(1) Any individually identifiable information submitted to the Director within or related to an equal pay registration application or otherwise provided by an employer in its equal pay compliance statement under subsection (c) shall be considered confidential information and not subject to disclosure pursuant to the Illinois Freedom of Information Act. As used in this Section, "individually identifiable information" means data submitted pursuant to this Section that is associated with a specific person or business. Aggregate data or reports that are reasonably calculated to prevent the association of any data with any individual business or person are not confidential information. Aggregate data shall include the job category and the average hourly wage by county for each gender, race, and ethnicity category on the registration certificate applications. The Department of Labor may compile aggregate data from registration certificate applications.

(2) The Director's decision to issue, not issue, revoke, or suspend an equal pay registration certificate is public information.

(3) Notwithstanding this subsection (h), a current employee of a covered business may request anonymized data regarding their job classification or title and the pay for that classification. No individually identifiable information may be provided to an employee making a

request under this paragraph.

(4) Notwithstanding this subsection (h), the Department may share data and identifiable information with the Department of Human Rights, pursuant to its enforcement of Article 2 of the Illinois Human Rights Act, or the Office of the Attorney General, pursuant to its enforcement of Section 10-104 of the Illinois Human Rights Act.

(5) Any Department employee who willfully and knowingly divulges, except in accordance with a proper judicial order or otherwise provided by law, confidential information received by the Department from any business pursuant to this Act shall be deemed to have violated the State Officials and Employees Ethics Act and be subject to the penalties established under subsections (e) and (f) of Section 50-5 of that Act after investigation and opportunity for hearing before the Executive Ethics Commission in accordance with Section 20-50 of that Act.

~~Data submitted to the Director related to equal pay registration certificates or otherwise provided by an employer in its equal pay compliance statement under subsection (c) are private data on individuals or nonpublic data with respect to persons other than Department employees. The Director's decision to issue, not issue, revoke, or suspend an equal pay registration certificate is public data.~~

(i) ~~(j)~~ Penalty. The Department shall impose on any

~~business that does not obtain an equal pay registration certificate as required under this Section, or whose equal pay registration certificate is suspended or revoked after a Department investigation, a civil penalty in an amount equal to 1% of the business's gross profits.~~ Falsification or misrepresentation of information on an application submitted to the Department shall constitute a violation of this Act and the Department may seek to suspend or revoke an equal pay registration certificate or impose civil penalties as provided under subsection (c) of Section 30.

~~(k) Whistleblower protection. As used in this subsection, "retaliatory action" means the reprimand, discharge, suspension, demotion, denial of promotion or transfer, or change in the terms and conditions of employment of any employee of a business that is taken in retaliation for the employee's involvement in a protected activity.~~

~~(1) A business shall not take any retaliatory action against an employee of the business because the employee does any of the following:~~

~~(A) Discloses or threatens to disclose to a supervisor or to a public body an activity, inaction, policy, or practice implemented by a business that the employee reasonably believes is in violation of a law, rule, or regulation.~~

~~(B) Provides information to or testifies before any public body conducting an investigation, hearing,~~

~~or inquiry into any violation of a law, rule, or regulation by a nursing home administrator.~~

~~(C) Assists or participates in a proceeding to enforce the provisions of this Act.~~

~~(2) A violation of this subsection (k) may be established only upon a finding that (i) the employee of the business engaged in conduct described in paragraph (1) of this subsection and (ii) this conduct was a contributing factor in the retaliatory action alleged by the employee. There is no violation of this Section, however, if the business demonstrates by clear and convincing evidence that it would have taken the same unfavorable personnel action in the absence of that conduct.~~

~~(3) The employee of the business may be awarded all remedies necessary to make the employee whole and to prevent future violations of this Section. Remedies imposed by the court may include, but are not limited to, all of the following:~~

~~(A) Reinstatement of the employee to either the same position held before the retaliatory action or to an equivalent position.~~

~~(B) Two times the amount of back pay.~~

~~(C) Interest on the back pay.~~

~~(D) Reinstatement of full fringe benefits and seniority rights.~~

~~(E) Payment of reasonable costs and attorney's fees.~~

~~(4) Nothing in this Section shall be deemed to diminish the rights, privileges, or remedies of an employee of a business under any other federal or State law, rule, or regulation or under any employment contract.~~

(Source: P.A. 101-656, eff. 3-23-21.)

(820 ILCS 112/30)

Sec. 30. Violations; fines and penalties.

(a) If an employee is paid by his or her employer less than the wage to which he or she is entitled in violation of Section 10 or 11 of this Act, the employee may recover in a civil action the entire amount of any underpayment together with interest, compensatory damages if the employee demonstrates that the employer acted with malice or reckless indifference, punitive damages as may be appropriate, injunctive relief as may be appropriate, and the costs and reasonable attorney's fees as may be allowed by the court and as necessary to make the employee whole. At the request of the employee or on a motion of the Director, the Department may make an assignment of the wage claim in trust for the assigning employee and may bring any legal action necessary to collect the claim, and the employer shall be required to pay the costs incurred in collecting the claim. Every such action shall be brought within 5 years from the date of the underpayment. For purposes

of this Act, "date of the underpayment" means each time wages are underpaid.

(a-5) If an employer violates subsection (b), (b-5), (b-10), or (b-20) of Section 10, the employee may recover in a civil action any damages incurred, special damages not to exceed \$10,000, injunctive relief as may be appropriate, and costs and reasonable attorney's fees as may be allowed by the court and as necessary to make the employee whole. If special damages are available, an employee may recover compensatory damages only to the extent such damages exceed the amount of special damages. Such action shall be brought within 5 years from the date of the violation.

(b) The Director is authorized to supervise the payment of the unpaid wages under subsection (a) or damages under subsection (b), (b-5), (b-10), or (b-20) of Section 10 owing to any employee or employees under this Act and may bring any legal action necessary to recover the amount of unpaid wages, damages, and penalties or to seek injunctive relief, and the employer shall be required to pay the costs. Any sums recovered by the Director on behalf of an employee under this Section shall be paid to the employee or employees affected.

(c) Employers who violate any provision of this Act or any rule adopted under the Act are subject to a civil penalty for each employee affected as follows:

(1) An employer with fewer than 4 employees: first offense, a fine not to exceed \$500; second offense, a fine

not to exceed \$2,500; third or subsequent offense, a fine not to exceed \$5,000.

(2) An employer with between 4 and 99 ~~4 or more~~ employees: first offense, a fine not to exceed \$2,500; second offense, a fine not to exceed \$3,000; third or subsequent offense, a fine not to exceed \$5,000.

(3) An employer with 100 or more employees who violates any Section of this Act except for Section 11 shall be fined up to \$10,000 per employee affected. An employer with 100 or more employees that is a business as defined under Section 11 and commits a violation of Section 11 shall be fined up to \$10,000.

Before any imposition of a penalty under this subsection, an employer with 100 or more employees who violates item (b) of Section 11 and inadvertently fails to file an initial application or recertification shall be provided 30 calendar days by the Department to submit the application or recertification.

An employer or person who violates subsection (b), (b-5), (b-10), (b-20), or (c) of Section 10 is subject to a civil penalty not to exceed \$5,000 for each violation for each employee affected.

(d) In determining the amount of the penalty, the appropriateness of the penalty to the size of the business of the employer charged and the gravity of the violation shall be considered. The penalty may be recovered in a civil action

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SB1847 Enrolled

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brought by the Director in any circuit court.

(Source: P.A. 101-177, eff. 9-29-19.)

Section 99. Effective date. This Act takes effect upon becoming law.